

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA**

*versus*

**CHARLES McCREARY, et al.**

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**CRIMINAL NO. 4:19-CR-719**

**DEFENDANTS' JOINT UNOPPOSED MOTION FOR CONTINUANCE**

**TO THE HONORABLE JUDGE HITTNER:**

**COMES NOW CHARLES McCREARY, CHRISTOPHER McINTOSH, JASON BROWN, MICHAEL GOODWIN, MATTHEW DOWELL, WILLIAM ANDREW DELBOY, SCOTT CARROLL, PATRICK W. KELLY, CRAIG JORGENSEN, JOSEPH COHEN,** Defendants, by and through their attorneys of record, hereby requests this honorable Court consider the merits of this motion and, in turn, grant this motion based upon the following:

**I**

The above styled and numbered cause is set for Jury Trial on June 21, 2021. Pretrial Conference is scheduled for June 18. Motions for both parties were due on May 21, 2021.

All defendants request a continuance of the trial date based upon the following:

1. This is a complex case, with multiple defendants, involving allegations of possession, distribution, and the advertisement of child pornography.
2. All but one of the defendants resides outside of the Southern District of Texas. Each of the defendants' residences was searched in this investigation. All the defendants were detained and are in custody at various detention facilities near Houston.
3. A superseding indictment in this case was filed on July 1, 2020. *See Doc. 169.*
4. This case was "Covided." The Court, the government and defense counsel had to deal with the pandemic that stymied the world and the Judicial system since March 2020. The pandemic prevented defense counsel from effective preparation of their criminal cases, especially due to the lack of face-to-face interactions with defendants, defense experts, and the ability to consult with the defendants. Defense counsel and the government have been endeavoring to comply with the enormous discovery process. Both parties have been diligently working through the vast amount of discovery to narrow down the issues for a trial. Because of the enormity of the discovery, and the "catch-up" that everyone has been struggling with, the defendants will not be effectively prepared for a trial on June 21.
5. Furthermore, defense counsel must review not only the evidence seized from the defendant but from all the defendants charged in the conspiracy.

6. Defendants' experts have reviewed the discovery provided however they have not reviewed the entire discovery. Once the entirety of the discovery has been reviewed and discussed with counsel it will still need to be reviewed with the individual defendants.
7. Defense counsel has also been attempting to negotiate with the government in attempt to avoid a trial.
8. Defense counsels' retained expert (retained by McCreary, Dowell, and Cohen), Eric Devlin, is unavailable during the week of June 21, 2021 because he is one of the main presenters/teachers at the "Annual Rusty Duncan" conference in San Antonio.
9. Defense Counsel requests the Court continue the trial for at least 90 days, or to sometime in late August.
10. Undersigned counsel has conferred with the Assistant United States Attorneys in this cause, Kim Leo and Sherri Zack, and they stated they are not opposed to a continuance.
11. The Defendants jointly request that this Court grant a continuance. Defendants submit that the ends of justice would best be served by the granting of such continuance and that the granting of such continuance outweighs the best interest of the public and the defendants' right to a speedy trial pursuant to Title 18 U.S.C., § 3161(h)(7)(A); and furthermore, such

period of delay due to a continuance would be excludable as a failure to grant such continuance would deny counsel for the defendants the reasonable time necessary for effective preparation taking into account the exercise of due diligence as pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).

**WHEREFORE, PREMISES CONSIDERED,** Defendant prays this Court grant this motion to continue.

**Respectfully submitted,**

/s/ Mark C. Thering

**MARK C. THERING**

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**Attorney for Defendant**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Defendants' Unopposed Joint Motion to Continue** was delivered via electronic filing to the Assistant United States Attorneys in this cause on June 9, 2021.

/s/ Mark C. Thering

**MARK C. THERING**

**CERTIFICATE OF CONFERENCE**

Counsel certifies that he has spoken to the Assistant United States Attorneys in this cause, Kim Leo and Sherri Zack, who are not opposed to a continuance. All defendants who have not changed their pleas to “guilty” file this motion jointly.

**/s/ Mark C. Thering**  
**MARK C. THERING**